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PART II—Section 2

Bills and Reports of Select Committees on Bills

PARLIAMENT OF INDIA

The following Bills were introduced in Parliament on the 11th February 1952:—

BILL NO. 6 OF 1952

A Bill further to amend the Capital Issues (Continuance of Control) Act, 1947.

Be it enacted by Parliament as follows —

1. Short title.—This Act may be called the Capital Issues (Continuance of Control) Amendment Act, 1952.

2. Amendment of section 1, Act XXIX of 1947.—In sub-section (3) of section 1 of the Capital Issues (Continuance of Control) Act, 1947 (hereinafter referred to as the principal Act), for the figures “1952” the figures “1956” shall be substituted.

3. Amendment of section 12, Act XXIX of 1947.—In section 12 of the principal Act, after the words “this Act” the words “and in particular for the levy of fees on applications made to the Central Government for its consent” shall be inscribed.

STATEMENT OF OBJECTS AND REASONS

The object of this Bill is to continue in force, up to the 31st March, 1956, the provisions of the Capital Issues (Continuance of Control) Act, 1947, which expires on the 31st March, 1952. As suggested by the Planning Commission, it is necessary to continue the control in order to canalise the limited capital resources, available for investment, in the desired fields. Provision is also being made for the levy of fees in order to make the capital issues organisation self-sufficient as far as possible.

C. D. DESHMUKH

NEW DELHI;
The 2nd February, 1952.

BILL No. 7 of 1952

A Bill further to amend the Foreign Exchange Regulation Act, 1947.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Foreign Exchange Regulation (Amendment) Act, 1952.

2. Amendment of section 1, Act VII of 1947.—In section 1 of the Foreign Exchange Regulation Act, 1947 (hereinafter referred to as the principal Act), for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) It shall remain in force up to the thirty-first day of December, 1957.”

3. Amendment of section 2, Act VII of 1947.—In section 2 of the principal Act, clause (e) shall be omitted.

4. Amendment of section 8, Act VII of 1947.—In section 8 of the principal Act, sub-section (3) shall be omitted.

5. Amendment of section 12, Act VII of 1947.—In sub-section (1) of section 12 of the principal Act, for the words “prohibit the export” the words “prohibit the taking or sending out by land, sea or air (hereafter in this section referred to as export)” shall be substituted.

6. Substitution of new section for section 18 in Act VII of 1947.—For section 18 of the principal Act, the following section shall be substituted, namely:—

“18. *Certain provisions as to companies.*—(1) Where there is served on any person resident in the States a notice in writing that the Central Government or the Reserve Bank wishes any such requirements as are hereinafter mentioned to be complied with by any such company as is specified in *Explanation I* [hereafter in this sub-section and in sub-section (2) referred to as a foreign company] and that person can by doing or refraining from doing any act—

(a) cause the foreign company to comply with any of the requirements, or

(b) remove any obstacle to the foreign company complying with any of the requirements, or

(c) render it in any respect more probable that the foreign company will comply with any of the requirements,

then, except so far as permission to the contrary may be given by the Central Government or, as the case may be, by the Reserve Bank, that person shall do or, as the case may be, refrain from doing that act.

(2) The requirements with respect to which a notice under sub-section (1) may be given are as follows, that is to say, the foreign company shall—

(i) furnish to the Central Government or, as the case may be, to the Reserve Bank such particulars as to its assets and business as may be mentioned in the notice,

(ii) sell or procure the sale to an authorised dealer of any foreign exchange mentioned in the notice, being foreign exchange which it is entitled to sell or of which it is entitled to procure the sale;

(iii) declare and pay such dividend as may be mentioned in the notice;

(iv) realise any of its assets mentioned in the notice in such manner as may be so mentioned;

(v) refrain from selling or transferring or doing anything which affects its rights or powers in relation to any such instruments or securities as may be mentioned in the notice.

(3) Except with the general or special permission of the Reserve Bank, no person resident in the States shall do any act whereby a company which is controlled by persons resident in India ceases to be so controlled.

(4) Except with the general or special permission of the Reserve Bank, no person resident in the States shall lend any money either to any company (other than a banking company) which is controlled directly or indirectly by persons resident outside India elsewhere than in the territories notified in this behalf by the Reserve Bank or to any such person.

Explanation I—The companies referred to in sub-section (1) are companies not incorporated under any law in force in the States in the case of which any of the following conditions is fulfilled:—

(a) that the company is by any means controlled (directly or indirectly) by persons resident in the States; or

(b) that more than one-half of the sums which, on a liquidation thereof, would be receivable by holders of share or loan capital, would be receivable directly or indirectly by, or for the benefit of, persons resident in the States; or

(c) that more than one-half of the assets which, on a liquidation thereof, would be available for distribution after the payment of creditors, would be receivable directly or indirectly by, or for the benefit of, persons resident in the States; or

(d) that more than one-half—

(i) of the interest payable on its loans and loan capital, if any, or

(ii) of the dividends payable on its preference share capital, if any, or

(iii) of the dividends payable on its share capital, if any, not being preference share capital,

is receivable directly or indirectly by, or for the benefit of, persons resident in the States.

Explanation II.—Where the identity of the persons by whom, or for whose benefit, any sum, assets, interest or dividends are directly or indirectly receivable depends on the exercise by any person resident in the States of a power vested in him in that behalf, the sum, assets, interest or dividends shall, for the purposes of this sub-section, be deemed to be receivable directly or indirectly by, or for the benefit of, persons resident in the States.”

7. Amendment of section 19, Act VII of 1947.—For sub-sections (2) and (3) of section 19 of the principal Act, the following sub-sections shall be substituted, namely:—

‘(2) Where for the purposes of this Act the Central Government or the Reserve Bank considers it necessary or expedient to obtain and examine any information, book or other document in the possession

of any person or which in the opinion of the Central Government or the Reserve Bank it is possible for such person to obtain and furnish, the Central Government or, as the case may be, the Reserve Bank may, by order in writing, require any such person (whose name shall be specified in the order) to furnish, or to obtain and furnish, to the Central Government or the Reserve Bank or any person specified in the order with such information, book or other document.

(3) If on a representation in writing, made by a person authorised in this behalf by the Central Government or the Reserve Bank, a District Magistrate, Sub-Divisional Magistrate, Presidency Magistrate or Magistrate of the first class, has reason to believe that a contravention of any of the provisions of this Act has been, or is being or is about to be committed in any place,

or that a person to whom an order under sub-section (2) of this section has been or might be addressed, will not or would not produce the information, book or other document,

or where such information, book or other document is not known to the Magistrate to be in the possession of any person,

or where the Magistrate considers that the purposes of any investigation or proceeding under this Act will be served by a general search or inspection,

he may issue a search warrant and the person to whom such warrant is directed may search or inspect in accordance therewith and seize any book or other document, and the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898) relating to searches under that Code shall, so far as the same are applicable, apply to searches under this sub-section:

Provided that such warrant shall not be issued to any police officer below the rank of sub-inspector.

Explanation.—In this sub-section, “place” includes a house, building, tent, vehicle, vessel or aircraft.’

8. Amendment of section 23, Act VII of 1947.—In sub-section (3) of section 23 of the principal Act, after the words “or the Reserve Bank” the words “by a general or special order” shall be inserted.

9. Insertion of new sections 23A and 23B in Act VII of 1947.—After section 23 of the principal Act, the following sections shall be inserted, namely:—

“23A. *Application of Sea Customs Act, 1878.*—Without prejudice to the provisions of section 23 or to any other provision contained in this Act, the restrictions imposed by sub-sections (1) and (2) of section 8, sub-section (1) of section 12 and clause (a) of sub-section (1) of section 13 shall be deemed to have been imposed under section 19 of the Sea Customs Act, 1878 (VIII of 1878), and all the provisions of that Act shall have effect accordingly, except that section 188 thereof shall have effect as if for the word ‘shall’ therein the word ‘may’ were substituted.

23B. *Attempts.*—Whoever attempts to contravene any of the provisions of this Act or of any rule, direction or order made thereunder

shall be deemed to have contravened that provision, rule, direction or order, as the case may be.'

10. Amendment of section 24, Act VII of 1947.—Section 24 of the principal Act shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely—

"(2) Where any person is prosecuted for contravening the provisions of sub-section (3) of section 4, the burden of proving that the foreign exchange acquired by such person has been used for the purpose for which permission to acquire it was granted shall be on him."

11. Insertion of new section 24A in Act VII of 1947.—After section 24 of the principal Act, the following section shall be inserted, namely.—

"24A. Presumption as to documents in certain cases.—Where any document is furnished by any person under sub-section (2) of section 19, or has been seized under sub-section (3) of that section from the custody or control of any person, and such document is tendered by the prosecution in evidence against him, the court shall, unless the contrary is proved by any such person, presume—

(a) the truth of the contents of such document;

(b) that the signature and every other part of such document which purports to be in the handwriting of any particular person or which the court may reasonably assume to have been signed by, or to be in the handwriting of, any particular person, is in that person's handwriting, and in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested."

12. Repeal of Ordinance X of 1951.—(1) The Foreign Exchange Regulation (Amendment) Ordinance, 1951 (X of 1951) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such thing was done or action was taken.

STATEMENT OF OBJECTS AND REASONS

Sub-section (4) of section 1 of the Foreign Exchange Regulation Act, 1947 (VII of 1947) lays down that the Act will remain in force for a period of 5 years only but at the same time empowers the Central Government to extend it for a further period of 3 years. The Act came into force on 25th March, 1947, and will, therefore, expire on the 24th March, 1952, unless extended. When the Foreign Exchange Regulation Act was first enacted it was hoped that world trade and economic conditions would stabilise themselves after the initial postwar period. Subsequent developments have largely falsified these anticipations. India continues to be short of foreign exchange and it is necessary to ensure that our foreign exchange resources are conserved in the national interest. In these circumstances a further extension of the Foreign Exchange Regulation Act is unavoidable.

Although under sub-section (4) of section 1 the Central Government have been empowered to extend the Act for a further period of 3 years, it is considered desirable to obtain the approval of Parliament to the extension in view of the discussions which had taken place in the House when the Act was first passed. The Bill seeks to extend the Act up to the 31st December, 1957.

2. The experience gained in the administration of the Foreign Exchange Regulation Act has brought to light certain lacunæ which hamper investigations and legal proceedings under the Act. The lacunæ relate particularly to the power to call for information and conduct searches. The requirements of the Evidence Act have also proved to be too stringent under modern conditions of trade and commerce. The Act does not also confer on the Central Government or the Reserve Bank sufficient control over the activities of foreign subsidiaries of Indian companies. The Bill seeks to remove these defects in the Act.

3. In view of the urgency of the matter an Ordinance on the above lines was promulgated on the 27th December, 1951, and this Bill when enacted will repeal that Ordinance.

C. D. DESHMUKH.

NEW DELHI;
The 81st January, 1952.

BILL* No. 8 of 1952

A Bill to provide for the conservation of coal and make further provision for safety in coal mines.

BE it enacted by Parliament as follows:—

1. Short title and extent.—(1) This Act may be called the Coal Mines (Conservation and Safety) Act, 1952.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

2. Declaration as to expediency of control by Central Government.—It is hereby declared that it is expedient in the public interest that the Central Government should take under its control the regulation of coal mines to the extent hereinafter provided.

3. Definitions.—In this Act, unless the context otherwise requires,—

(a) “Board” means the Coal Board established under section 4;

(b) “blending” means the process of intimately mixing different varieties of coal so as to provide a mixture which on carbonisation results in coke, which, in the opinion of the Board,

*The President has, in pursuance of clauses (1) and (3) of article 117 of the Constitution of India, recommended to Parliament the introduction and consideration of the Bill.

is suitable for being used in metallurgical industries, particularly in iron and steel industries;

(c) "coal" includes coke in all its forms;

(d) "coking coal" means such type of coal from which on carbonisation coke suitable, in the opinion of the Board, for being used in metallurgical industries, particularly in iron and steel industries, can be prepared;

(e) "Chief Inspector" and "Inspector" means the persons respectively appointed as the Chief Inspector of Mines and Inspector of Mines under sub-section (1) of section 4 of the Indian Mines Act, 1923 (IV of 1923) and the provisions of that Act shall apply to the Chief Inspector and to all Inspectors while exercising their powers under this Act or the rules made thereunder;

(f) "Fund" means the Coal Mines Safety and Conservation Fund constituted under section 12;

(g) "India" means the territory of India excluding the State of Jammu and Kashmir;

(h) "prescribed" means prescribed by rules made under this Act;

(i) "soft coke" means all coke which is unsuitable for being used in metallurgical industries, and "hard coke" means all coke which is not soft coke;

(j) "stowing" means the operation of filling with sand or any other material or with both spaces left under-ground in a coal mine by the extraction of coal;

(k) "washing" means such a process or a combination of processes as may be approved in this behalf by the Board by which the whole or any part of the shale and mineral matter found in the coal is removed therefrom;

(l) "agent", "mine" and "owner" have the meanings respectively assigned to them in section 3 of the Indian Mines Act, 1923 (IV of 1923).

4. Establishment of the Board.—(1) There shall be established a Board, to be called the Coal Board, and such Board shall be a body corporate having perpetual succession and a common seal and shall by the said name sue and be sued.

(2) The Board shall consist of a Chairman and such number of other members, not exceeding six, as the Central Government may

think fit to appoint and the members (including the Chairman) shall hold office during the pleasure of the Central Government:

Provided that the Chairman or any other member of the Board may resign his office by giving notice in writing to the Central Government and shall, on such resignation being accepted by that Government, be deemed to have vacated his office.

(3) No act or proceeding of the Board shall be invalid by reason only of the existence of any vacancy amongst its members (including the Chairman) or any defect in the constitution thereof.

5. Functions of the Board.—(1) The Board may, for the purpose of maintenance of safety in coal mines or for conservation of coal, exercise such powers and discharge such duties as may be assigned to it by or under this Act.

(2) The Central Government may, by general or special order, delegate to the Board, subject to such conditions and limitations (if any) as may be specified in the order, such of its powers and duties under this Act or under any other law for the time being in force as it may deem necessary for effectively dealing with problems relating to safety in coal mines or conservation of coal and matters connected therewith or incidental thereto.

6. Powers of the Board in executing operations.—(1) If in the opinion of the Board, it is necessary or desirable that any measures, including stowing, required in furtherance of the objects of this Act should be undertaken directly by the Board, the Board may execute or cause to be executed such measures under its own supervision.

(2) For the purposes of this section, the Board shall have the right for itself and all persons employed in the execution of any work undertaken under this section to enter upon any property in which the work has to be done, and to do therein all things necessary for the execution of the work.

(3) No person shall obstruct or interfere with the execution of any work undertaken under this section and no person shall remove or tamper with any plant or machinery or any stowing or other materials used in the execution of such work.

(4) Whoever contravenes the provisions of sub-section (3) shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

7. Powers of Central Government in respect of safety in coal mines and conservation of coal.—(1) The Central Government may, for the purpose of maintenance of safety in coal mines or for conservation of coal, exercise such powers and take or cause to be taken all such measures as it may deem necessary or proper or as may be prescribed.

(2) Without prejudice to the generality of the foregoing power, the Central Government may, by order in writing addressed to the owner, agent or manager of a coal mine, require him to take such measures as it may think necessary for the purpose of maintenance of safety in coal mines or for conservation of coal, including—

(a) in any coal mine, stowing for safety; or

(b) without prejudice to any order under clause (a), in the case of any coal mine producing coking coal or producing coal which on beneficiation is likely to yield coking coal or producing coal suitable for blending, stowing for conservation; or

(c) washing of coal with a view to beneficiating and reducing the ash contents of coal and improving its coking qualities.

8. Imposition of excise duties.—(1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be levied and collected—

(a) on all coal raised and despatched, and on all coke manufactured and despatched, from the collieries in India, such duty of excise not exceeding one rupee per ton as may be fixed from time to time by the Central Government by notification in the Official Gazette, and different rates of duty may be levied on different grades or descriptions of coal or coke:

Provided that the Central Government may, by general or special order, exempt any special grade or grades or description of coal or coke from the levy of such duty of excise;

(b) on all coking coal raised and despatched from the collieries in India, such additional duty of excise not exceeding five rupees per ton in the case of coal of Selected Grade A or Selected Grade B, and not exceeding two rupees per ton in the case of coal of Grade I, as may be fixed from time to time by the Central Government by notification in the Official Gazette.

Explanation.—Coal of Selected Grade A, Selected Grade B and Grade I means coal graded as such under the Colliery Control Order, 1945.

(2) Where coking coal, in respect of which an additional duty of excise has been levied and collected under clause (b) of sub-section (1), is despatched to any person for use in India and—

(a) the use of coking coal is, in the opinion of the Central Government, essential for carrying on any industrial or other process in which such person is engaged; or

(b) the despatch of the coking coal is made under the orders of the Board, although it was not specifically indented for by such person;

then, the Central Government shall cause to be paid to that person a sum equivalent to the additional duty of excise so collected on the coking coal received and used by that person.

9. Imposition of customs duty.—During the period in which any duty of excise is being levied under section 8, the Central Government may, by notification in the Official Gazette, impose on all coal (including soft and hard coke) imported or brought into India from any place outside India, a duty of customs (which shall be in addition to any duty of customs for the time being leviable under any other law), at rates equivalent to the rates of duties of excise levied under section 8.

10. Collection of excise duties.—The duties of excise levied under section 8 shall be collected by such agencies and in such manner as may be prescribed.

11. Payment to the Coal Board of a sum equal to net proceeds of excise duties.—The Central Government may, in each financial year, pay to the Board a sum equivalent to the net proceeds (determined in such manner as may be prescribed) of the duties of excise collected under section 8 during the preceding financial year.

12. Money received by the Board to be credited to the Fund.—(1) The sum referred to in section 11 and any other money received by the Board shall be credited to a Fund to be called the Coal Mines Safety and Conservation Fund which shall be applied by the Board, in such manner and subject to such conditions as may be prescribed, to—

- (a) meeting the expenses in connection with the administration of the Board and the furtherance of the objects of this Act;
- (b) the grant of stowing materials and other assistance for stowing operations to the owners, agents or managers of coal mines;
- (c) the execution of stowing and other operations in furtherance of the objects of this Act;
- (d) the prosecution of research work connected with safety in coal mines or conservation and utilisation of coal;
- (e) meeting the cost of administering the Fund and the expenses in connection with Advisory Committees;
- (f) the grant to State Governments, research organisations, local authorities and owners, agents or managers of coal mines of money in aid of any scheme approved by the Central Government in furtherance of the objects of this Act;
- (g) any other expenditure which the Central Government directs to be defrayed out of the Fund.

(2) The Board shall keep accounts of the Fund, and such accounts shall be examined and audited at prescribed intervals by the auditors appointed in this behalf by the Central Government.

13. Powers of Inspectors.—(1) The Chief Inspector or any Inspector may make such examination and inquiries as he thinks fit in order to ascertain whether the provisions of this Act or of any rules and orders made thereunder are being complied with.

(2) The Chief Inspector or any Inspector may, with such assistants, if any, as he thinks fit, enter, inspect and examine at any time by day or night any coal mine in respect of which assistance is being, or has been, given under this Act, in order to ascertain the amount of sand or other materials used in stowing in the mine or to ensure that stowing or any other operation towards which assistance may be granted under this Act, has been, or is being, done effectively:

Provided that the power conferred by this sub-section shall not be exercised in such a manner as unreasonably to impede or obstruct the working of the mine.

(3) Without prejudice to the provisions of section 19 of the Indian Mines Act, 1923 (IV of 1923), the Chief Inspector or any Inspector may, by order in writing addressed to the owner, agent or manager of a coal mine, require him to take such protective measures, including stowing, in the mine as the Chief Inspector or the Inspector may think necessary, if in the opinion of the Chief Inspector or Inspector—

(a) the extraction or reduction of pillars in any part of the mine is likely to cause the crushing of pillars or the premature collapse of any part of the workings or otherwise endanger human life or the mine, or

(b) adequate provision against the outbreak of fire or flooding has not been made by providing for the sealing off and isolation of any part of the mine or for restricting the area that might be affected by fire or flooding, as the case may be.

(4) The powers conferred on the Inspector under sub-sections (1), (2) and (3) may also be exercised by such officers of the Board suitably qualified in this behalf as the Central Government may, by notification in the Official Gazette, specify in this behalf.

14. Application of Act IV of 1923.—The provisions of sub-sections (3) to (6) (both inclusive) of section 19 of the Indian Mines Act, 1923 (IV of 1923), shall apply to an order made under sub-section (3) of section 13 of this Act as they apply to an order made under sub-section (2) of section 19 of that Act, and all the provisions of the Indian Mines Act, 1923, [except sub-section (1) of section 11 thereof],

affecting committees appointed for the purposes of that Act or relating to the disposal of references made to such committees, shall apply, so far as may be, to a committee appointed to inquire into a reference under this Act and to the disposal of such reference:

Provided that the power conferred by the proviso to sub-section (6) of the said section 19 to suspend the operation of a requisition under sub-section (1) of that section shall include a power similarly to suspend the operation of an order made under sub-section (3) of section 13 of this Act.

15. Advisory Committees.—(1) The Central Government may, by notification in the Official Gazette, constitute one or more Advisory Committees consisting of such number of persons and on such terms and conditions as may be prescribed.

(2) It shall be the duty of the Advisory Committees to advise the Central Government or the Board in regard to any matter connected with the administration of the Act in respect of which their advice is sought by the Central Government, or, as the case may be, by the Board.

16. Protection of action taken in good faith.—No suit, prosecution or other legal proceedings shall lie against the Chairman or any other member of the Board or any officer thereof or any other person in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or orders made thereunder.

17. Power to make rules.—(1) The Central Government may, by notification in the Official Gazette and subject to the condition of previous publication, make rules to carry out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the measures to be taken for the purpose of maintenance of safety in coal mines or for the conservation of coal;

(b) the levy, collection and payment of the duties of excise and the imposition, collection and payment of the duty of customs;

(c) the appointment and terms and conditions of service of the Chairman and other members of the Board;

(d) the powers and functions of, and the conduct of business by, the Board;

(e) the determination of the net proceeds of the duties of excise for the purposes of section 11;

(f) the manner in which, and the conditions subject to which, sums at the credit of the Coal Mines Safety and Conservation Fund may be applied;

(g) the form in which the accounts of the Fund shall be kept, the intervals within which, and the manner in which, such accounts may be audited;

(h) the composition of any committee of inquiry which may be appointed to inquire into a reference arising out of an order passed under sub-section (3) of section 13, the technical qualifications to be possessed by persons nominated thereto, and the powers and duties of such committee;

(i) the composition of Advisory Committees, their functions, and the terms and conditions of service of members thereof;

(j) any other matter which has to be, or may be, prescribed.

(3) Any rule made under the provisions of this Act may provide that the contravention thereof shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.

(4) All rules made under the provisions of this Act shall be laid, as soon as may be, before Parliament.

18. Act to apply to Government coal mines.—This Act applies also to coal mines belonging to the Government.

19. Repeals and savings.—(1) The Coal Mines Safety (Stowing) Act, 1939 (XIX of 1939) and the Coal Mines (Conservation and Safety) Ordinance, 1952 (I of 1952) are hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken (including any rules, notifications or orders made or issued) in the exercise of any power conferred by or under the said Act or Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such thing was done or action was taken.

(3) As from the 8th day of January, 1952, all the moneys lying to the credit of the Coal Mines Stowing Fund under the Act hereby repealed shall be deemed to have been transferred to, and to vest in, the Board and to form part of the Coal Mines Safety and Conservation Fund.

STATEMENT OF OBJECTS AND REASONS

India's reserves of metallurgical coal (i.e., coal suitable for making hard coke required for the reduction of iron ore to pig iron in a blast furnace) are limited. A Committee set up by the Government of India in 1949 has estimated the reserves at 2,000 million tons, but has observed that this figure may well be halved unless precautionary steps (notably compulsory stowing) are taken in mining and unless steps are taken to use blends containing weakly coking coal and to wash the inferior grades of coal. Although at the present rate of consumption, these reserves may last for many years, the position will be different if steel production in the country is stepped up. The Metallurgical Conservation Committee has estimated that if metallurgical coal requirements are increased ten-fold—and such an increase may well be called for in the interests of the industrial development of the country—the life of the metallurgical coal reserves becomes no more than 55 years. Even this period may be halved unless stowing, washing and blending are adopted forthwith. It is, therefore, necessary that scientific working and conservation should be the keynote of future policy regarding metallurgical coal.

2. The Planning Commission which examined the report of the Committee referred to, recommended that powers should be assumed by the Government by legislation for conservation of the country's resources of metallurgical coal, and the present administrative machinery should also be rationalised. The Commission accordingly suggested the establishment of a Coal Board for the purpose.

3. The introduction of measures for conservation of metallurgical coal is urgent. Without such measures, the limited resources are being utilised for non-essential purposes. An Ordinance entitled the Coal Mines (Conservation and Safety) Ordinance, 1952, was accordingly promulgated, on 8th January, 1952, taking powers to introduce stowing which till then could be enforced only for safety in coal mines for conservation of coal also. To rationalise the administration a Coal Board was simultaneously established and the Coal Mines Safety (Stowing) Act, 1939, was also repealed as the relevant provisions of that statute which had to be continued had been embodied in the Ordinance.

It is now necessary that the powers assumed by the Central Government for the control and regulation of coal mines to the extent specified in the Ordinance should be continued and hence this Bill.

N. V. GADGIL.

NEW DELHI;

The 4th February, 1952.

BILL No. 9 of 1952

A Bill to provide for the requisitioning and acquisition of immovable property for the purposes of the Union.

Be it enacted by Parliament as follows:—

1. Short title and extent.—(1) This Act may be called the Requisitioning and Acquisition of Immovable Property Act, 1952.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) “award” means any award of an arbitrator made under section 8;

(b) “competent authority” means any person or authority authorised by the Central Government, by notification in the Official Gazette, to perform the functions of the competent authority under this Act for such area as may be specified in the notification;

(c) “landlord” means any person who for the time being is receiving, or is entitled to receive, the rent of any premises, whether on his own account, or on account or on behalf or for the benefit, of any other person or as a trustee, guardian or receiver for any other person, or who would so receive the rent or be entitled to receive the rent if the premises were let to a tenant;

(d) the expression “person interested”, in relation to any property, includes all persons claiming, or entitled to claim, an interest in the compensation payable on account of the requisitioning or acquisition of that property under this Act;

(e) “premises” means any building or part of a building and includes—

(i) the garden, grounds and outhouses, if any, appertaining to such building or part of a building;

(ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof;

(f) “prescribed” means prescribed by rules made under this Act;

(g) “property” means immovable property of every kind and includes any rights in or over such property;

(h) “tenant” means any person by whom or on whose account rent is payable for any premises and includes such sub-tenants and other persons as have derived title under the tenant under any law for the time being in force.

3. Power to requisition immovable property.—(1) Where the competent authority is of opinion that any property is needed or likely to be needed for any public purpose, being a purpose of the Union, and that the property should be requisitioned, the competent authority—

(a) shall call upon the owner or any other person who may be in possession of the property by notice in writing to show cause, within fifteen days of the date of the service of such notice on him, why the property should not be requisitioned; and

(b) may, by order, direct that neither the owner of the property nor any other person shall, without permission of the competent authority, dispose of, or structurally alter, the property or let it out to a tenant until the expiry of such period, not exceeding two months, as may be specified in the order.

(2) If, after considering the cause, if any, shown by any person interested in the property or in possession thereof, the competent authority is satisfied that it is necessary or expedient so to do, it may, by order in writing, requisition the property and may make such further orders as appear to it to be necessary or expedient in connection with the requisitioning.

Provided that no property which is exclusively used either for the purpose of religious worship or as a school, hospital or an orphanage shall be requisitioned.

4. Power to take possession of requisitioned property.—(1) Where any property has been requisitioned under section 8, the competent authority may, by notice in writing, order the owner as well as any other person who may be in possession of the property to surrender or deliver possession thereof to the competent authority or any person duly authorised by it in this behalf within ten days of the service of the notice.

(2) If any person refuses or fails to comply with an order made under sub-section (1), the competent authority may take possession of the property and may, for that purpose, use such force as may be necessary.

5. Rights over requisitioned property.—(1) Where any property is requisitioned under section 8, the competent authority may use or deal with the property in such manner and for such purposes of the Union as may appear to it to be expedient.

(2) Where any premises are requisitioned under section 8, the competent authority may order the landlord to execute such repairs as may be necessary and are usually made by landlords in that locality and as may be specified in the notice, within such time as may be mentioned therein, and if the landlord fails to execute any repairs in pursuance of such order, the competent authority may cause the repairs specified in the order to be executed at the expense of the landlord and the cost thereof may, without prejudice to any other mode of recovery, be deducted from the compensation payable to the landlord.

6. Release from requisitioning.—(1) The Central Government may at any time release from requisition any property requisitioned under this Act and shall, as far as possible, restore the property in as good a condition as it was when possession thereof was taken subject only to the changes caused by reasonable wear and tear and irresistible force.

(2) Where any property is to be released from requisition, the competent authority may, after such inquiry, if any, as it may in any case consider necessary to make or cause to be made, specify by order in writing the person to whom possession of the property shall be given.

(3) The delivery of possession of the property to the person specified in an order under sub-section (2) shall be a full discharge of the Central Government from all liability in respect of the property, but shall not prejudice any rights in respect of the property which any other person may be entitled by due process of law to enforce against the person to whom possession of the property is given.

(4) Where any person to whom possession of any requisitioned property is to be given is not found and has no agent or other person empowered to accept delivery on his behalf, the competent authority shall cause a notice declaring that the property is released from requisition to be affixed on some conspicuous part of the property and shall also publish the notice in the Official Gazette.

(5) When a notice referred to in sub-section (4) is published in the Official Gazette, the property specified in such notice shall cease to be subject to requisition on and from the date of such publication and shall be deemed to have been delivered to the person entitled to possession thereof and the Central Government shall not be liable for any compensation or other claim in respect of the property for any period after the said date.

(6) Where any property requisitioned under this Act or any material part thereof is wholly destroyed or rendered substantially and permanently unfit for the purpose for which it was requisitioned by reason of fire, earthquake, tempest, flood or violence of any army or of a mob or other irresistible force, the requisition shall, at the option of the Central Government, be void:

Provided that the benefit of this section shall not be available to the Central Government where the injury to such property is caused by any wrongful act or default of that Government.

7. **Power to acquire requisitioned property.**—(1) Where any property is subject to requisition, the Central Government may at any time acquire such property by publishing in the Official Gazette a notice to the effect that the Central Government has decided to acquire the property in pursuance of this section.

(2) When a notice as aforesaid is published in the Official Gazette, the requisitioned property shall, on and from the beginning of the day on which the notice is so published, vest absolutely in the Central Government free from all encumbrances and the period of requisition of such property shall end.

(3) No property shall be acquired under this section except in the following circumstances, namely:—

(a) where any works have, during the period of requisition, been constructed on, in or over, the property wholly or partially at the expense of the Central Government and the Government decides that the value of, or the right to use, such works should be secured or preserved for the purposes of Government; or

(b) where the cost of restoring the property to its condition at the time of its requisition would, in the determination of the Central Government, be excessive and the owner declines to accept release from requisition of the property without payment of compensation for so restoring the property.

(4) Any decision or determination of the Central Government under sub-section (3) shall be final and shall not be called in question in any court.

(5) For the purposes of clause (a) of sub-section (3) "works" includes buildings, structures and improvements of every description.

8. Principles and method of determining compensation.—(1) Where any property is requisitioned or acquired under this Act, there shall be paid compensation the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say,—

(a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;

(b) where no such agreement can be reached, the Central Government shall appoint as arbitrator a person who is, or has been, or is qualified for appointment as, a Judge of a High Court;

(c) the Central Government may, in any particular case, nominate a person having expert knowledge as to the nature of the property requisitioned or acquired to assist the arbitrator and where such nomination is made, the person to be compensated may also nominate an assessor for the same purpose;

(d) at the commencement of the proceedings before the arbitrator, the Central Government and the person to be compensated shall state what in their respective opinion is a fair amount of compensation;

(e) the arbitrator shall, after hearing the dispute, make an award determining the amount of compensation which appears to him to be just and specifying the person or persons to whom such compensation shall be paid; and in making the award, he shall have regard to the circumstances of each case and the provisions of sub-sections (2) and (3), so far as they are applicable;

(f) where there is any dispute as to the person or persons who are entitled to the compensation, the arbitrator shall decide such dispute and if the arbitrator finds that more persons than one are entitled to compensation, he shall apportion the amount thereof amongst such persons;

(g) nothing in the Arbitration Act, 1940 (X of 1940) shall apply to arbitrations under this section.

(2) The amount of compensation payable for the requisitioning of any property shall consist of—

(a) a recurring payment, in respect of the period of requisition, of a sum equal to the rent which would have been payable for the use and occupation of the property, if it had been taken on lease for that period; and

(b) such sum or sums, if any, as may be found necessary to compensate the person interested for all or any of the following matters, namely:—

(i) pecuniary loss due to requisitioning;

(ii) expenses on account of vacating the requisitioned premises;

(iii) expenses on account of reoccupying the premises upon release from requisition; and

(iv) damages (other than normal wear and tear) caused to the property during the period of requisition, including the expenses that may have to be incurred for restoring the property to the condition in which it was at the time of requisition.

(3) The compensation payable for the acquisition of any property under section 7 shall be—

(a) the price which the requisitioned property would have fetched in the open market, if it had remained in the same condition as it was at the time of requisitioning and been sold on the date of acquisition, or

(b) twice the price which the requisitioned property would have fetched in the open market if it had been sold on the date of requisition, whichever is less.

9. Payment of compensation.—The amount of compensation payable under an award shall, subject to any rules made under this Act, be paid by the competent authority to the person or persons entitled thereto in such manner as may be specified in the award.

10. Appeals from orders of requisitioning.—(1) Any person aggrieved by an order of requisition made by the competent authority under sub-section (2) of section 8 may, within ten days from the date of service of the order, prefer an appeal to the Central Government :

Provided that the Central Government may entertain the appeal after the expiry of the said period of ten days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the Central Government may, after calling for a report from the competent authority and after making such further inquiry, if any, as may be necessary, pass such orders as it thinks fit and the order of the Central Government shall be final.

(3) Where an appeal is preferred under sub-section (1), the Central Government may stay the enforcement of the order of the competent authority for such period and on such conditions as it thinks fit.

11. Appeals from awards in respect of compensation.—Any person aggrieved by an award of the arbitrator made under section 8 may, within thirty days from the date of such award, prefer an appeal to the High Court within whose jurisdiction the requisitioned or acquired property is situate:

Provided that the High Court may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

12. Competent authority and arbitrator to have certain powers of civil courts.—The competent authority and the arbitrator appointed under section 8, while holding an inquiry or, as the case may be, arbitration proceedings under this Act, shall have all the powers of a civil court, while trying a suit, under the Code of Civil Procedure, 1908 (Act V of 1908) in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) reception of evidence on affidavits;

(d) requisitioning any public record from any court or office;

(e) issuing commissions for examination of witnesses.

13. Power to obtain information.—The Central Government or the competent authority may, with a view to carrying out the purposes of section 8 or section 6, or section 7 or section 8, by order require any person to furnish to such officer, as may be specified in the order, such information in his possession as may be specified relating to any property which is requisitioned or acquired, or intended to be requisitioned or acquired, under this Act.

14. Power to enter and inspect.—The competent authority or any officer, empowered in this behalf by such authority by general or special order, may enter and inspect any property for the purposes of determining whether, and if so, in what manner, an order under this Act should be made in relation to such property or with a view to securing compliance with the order made under this Act.

15. Service of notice and orders.—(1) Subject to the provisions of this section and any rules that may be made under this Act, every notice or order issued or made under this Act shall,—

(a) in the case of any notice or order of a general nature or affecting a class of persons, be published in the Official Gazette; and

(b) in the case of any notice or order affecting an individual corporation or firm, be served in the manner provided for the service of summons in Rule 2 of Order XXIX or Rule 3 of Order XXX, as the case may be, in the First Schedule of the Code of Civil Procedure, 1908 (Act V of 1908); and

(c) in the case of any notice or order affecting an individual person (not being a corporation or firm), be served on such person—

(i) by delivering or tendering it to that person; or

(ii) if it cannot be so delivered or tendered, by delivering or tendering it to any officer of such person or any adult male member of the family of such person, or by affixing a copy thereof on the outer door or on some conspicuous part of the premises in which that person is known to have last resided or carried on business or personally worked for gain; or

(iii) by post.

(2) Where the ownership of the property is in dispute or where the persons interested in the property are not readily traceable and the notice or order cannot be served without undue delay, the notice or order may be served by publishing it in the Official Gazette, and where possible, by affixing a copy thereof on any conspicuous part of the property to which it relates.

16. Easement not to be disturbed.—No person interested in any property requisitioned or acquired under this Act shall, without the previous written consent of the competent authority or except for the purposes of effecting repairs or complying with a municipal requirement, wilfully disturb any convenience or easement attached to such property or remove, destroy or render unserviceable anything provided for permanent use therewith or discontinue or cause to be discontinued any supply or service provided for the property.

17. Delegation of powers.—The Central Government may, by general or special order, direct that the powers exercisable by it by or under this Act shall, in such circumstances and under such conditions, if any, as

may be specified in the order, be exercisable also by an officer subordinate to that Government.

18. Protection of action taken in good faith.—(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

(2) No suit or other legal proceeding shall lie against the Central Government or the competent authority for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

19. Bar of jurisdiction of civil courts.—Save as otherwise expressly provided in this Act, no civil court shall have jurisdiction in respect of any matter which the competent authority or arbitrator is empowered by or under this Act to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

20. Penalty for offences.—Whoever contravenes any provision of this Act, or of any rule made thereunder, or any order made or direction given under this Act, or obstructs the lawful exercise of any power conferred by or under this Act, shall be punishable with fine which may extend to one thousand rupees.

21. Certain persons to be public servants.—The competent authority, every arbitrator and every officer empowered by the Central Government or the competent authority, while exercising any power or performing any duty under this Act, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

22. Power to make rules.—(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the procedure to be followed by the competent authority in making inquiries under section 3 or section 6;

(b) the procedure to be followed in arbitration proceedings and appeals under this Act;

(c) levy of court-fee in respect of appeals under section 11;

(d) the principles to be followed in determining the amount of compensation and method of payment of such compensation;

(e) the principles to be followed in apportioning the cost of proceedings before the arbitrator and on appeal under this Act;

(f) the manner of service of notices and orders;

(g) any other matter which has to be, or may be, prescribed.

23. Validation of certain requisitions.—All immovable property which purports to have been requisitioned by a State Government for any public purpose, being a purpose of the Union, under any Provincial or State Act and which, immediately before the 25th day of January, 1952 was used or

occupied by the Central Government or by an officer or authority subordinate to that Government shall, as from that date, be deemed to be property duly requisitioned under section 3 of this Act, and every such requisition shall, notwithstanding any judgment, decree or order of any court, be deemed always to have been valid as if this Act had been in force on and from the date of the requisition and the requisition had been duly made by a competent authority under this Act, and all the provisions of this Act shall apply accordingly.

Provided that all agreements and awards for the payment of compensation in respect of any such property for any period of requisition before the 25th day of January, 1952 and in force immediately before that date, shall be valid and shall be deemed always to have been valid and shall continue to be in force and shall apply to the payment of compensation in respect of that property for any period of requisition after that date.

24. Repeals and savings.—(1) The Requisitioned Land (Continuance of Powers) Act, 1947 (XVII of 1947), the Delhi Premises (Requisition and Eviction) Act, 1947 (XLIX of 1947) and the Requisitioning and Acquisition of Immovable Property Ordinance, 1952 (III of 1952) are hereby repealed.

(2) For the removal of doubts, it is hereby declared that any property which immediately before such repeal was subject to requisition under the provisions of either of the said Acts or the said Ordinance shall, on the commencement of this Act, be deemed to be property requisitioned under section 3 of this Act, and all the provisions of this Act shall apply accordingly:

Provided that—

(a) all agreements and awards for the payment of compensation in respect of any such property for any period of requisition before the commencement of this Act and in force immediately before such commencement, shall continue to be in force and shall apply to the payment of compensation in respect of that property for any period of requisition after such commencement;

(b) anything done or any action taken (including any orders, notifications or rules made or issued) in exercise of the powers conferred by or under either of the said Acts or the said Ordinance shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken in the exercise of the powers conferred by or under this Act as if this Act was in force on the day on which such thing was done or action was taken.

25. Amendment of Act XXVII of 1950.—The following amendments shall be made in the Government Premises (Eviction) Act, 1950, namely:—

(1) In sub-section (2) of section 1, for the words “the States of Jammu and Kashmir and Delhi”, the words “the State of Jammu and Kashmir” shall be substituted.

(2) For clause (b) of section 2, the following clause shall be substituted, namely:—

“(b) ‘Government premises’ means any premises or land belonging to, or taken on lease or requisitioned by, the Central Government or requisitioned by the competent authority under the Requisitioning and Acquisition of Immovable Property Act,

1952, and, in relation to the State of Delhi, includes any premises or land belonging to any municipality in Delhi or any land belonging to the Improvement Trust, Delhi, whether such land is in the possession of, or leased out by, the Improvement Trust.

(3) In section 3, for the words “the premises” wherever they occur, the words “the Government premises” shall be substituted.

(4) For section 4, the following section shall be substituted, namely:—

“4. *Power to recover rent or damages in respect of Government premises as arrears of land revenue.*—(1) Subject to any rules that may be made in this behalf by the Central Government, by notification in the Official Gazette, any sum due by way of rent in respect of any Government premises which is in arrear may be recovered by the competent authority from the person liable to pay the same in the same manner as an arrear of land revenue.

(2) Where any person is in unauthorised occupation of any Government premises, the competent authority may, in the prescribed manner, assess such damages on account of the use and occupation of the Government premises as it thinks fit and may, by notice served by post or in such other manner, as may be prescribed by rules made in this behalf, order that person to pay the damages within such time as may be specified in the notice.

(3) If any person refuses or fails to pay the damage within the time specified in the notice under sub-section (2), the damages may be recovered in the same manner as an arrear of land revenue.”

(5) In sub-section (2) of section 10—

(i) after clause (b), the following clause shall be inserted, namely:—

“(bb) the circumstances under which rent in respect of Government premises may be recovered as an arrear of land revenue;”;

(ii) to clause (c), the words “and the matters which may be taken into account in assessing such damages” shall be inserted;

(iii) after clause (c), the following clause shall be inserted, namely:—

“(cc) the manner of service of any notice under this Act;”.

STATEMENT OF OBJECTS AND REASONS.

During the war, lands and buildings were requisitioned under the Defence of India Act, 1939, and the rules made thereunder and such property continued to be subject to requisition under the Requisitioned Land (Continuance of Powers) Act, 1947 (XVII of 1947). As this Act was due to expire on 31st March, 1952, and as the Government of India had no powers to requisition any property outside Delhi, it was essential not only to take measures to ensure the continuance of the requisition of the premises already requisitioned under the Defence of India Rules, but also

to secure powers for the Central Government to make fresh requisitions in order to meet its demands for residential and office accommodation outside Delhi. Government of India were, therefore, considering the introduction of suitable legislation to meet the above purposes, for it was doubtful whether they could continue to rely, after the Constitution came into force, on the State Governments for requisitioning properties outside Delhi for the purposes of the Union. Before, however, the proposed legislation could be presented to Parliament, a judicial decision was given to the effect that a State Government had no powers to requisition premises for any purpose of the Union e.g., for allotment to a Central Government servant. A large number of houses in Bombay, Calcutta and other principal cities had, at the request of the Central Government, been requisitioned by the State Governments under their laws and placed at the disposal of the Central Government. A difficult situation would, therefore, have arisen if these orders of requisition were allowed to be challenged in Courts and declared invalid. In order to avoid such difficulties, an Ordinance—The Requisitioning and Acquisition of Immoveable Property Ordinance, 1952 (III of 1952)—was promulgated on 28th January, 1952. The Ordinance empowers the Central Government to requisition, for the purposes of the Union, any immovable property, and to acquire such requisitioned property under certain specified conditions. The principles and method according to which compensation shall be determined and paid for such requisitioning and acquisition have been laid down in sections 8 and 9. Provision is made in sections 10 and 11 for appeals against orders of the requisitioning and awards determining compensation. The Ordinance also validates every requisition made by a State Government where the requisitioned property is placed at the disposal of the Central Government or an officer or authority subordinate to that Government. The Ordinance repeals the Requisitioned Land (Continuance of Powers) Act, 1947, and the Delhi Premises (Requisition and Eviction) Act, 1947 (XLIX of 1947). As Act XLIX of 1947 is repealed, the Ordinance makes certain amendments, mainly consequential, in the Government Premises (Eviction) Act, 1950 (XXVII of 1950).

The present Bill seeks to replace the Ordinance by an Act of Parliament.

N. V. GADGIL.

NEW DELHI;
The 1st February, 1952.

M. N. KAUL,
Secretary.